

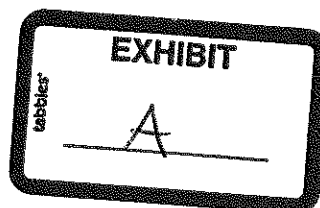
ISSUED

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SUMMONS	
District Court: FIRST JUDICIAL Rio Arriba County, New Mexico Court Address: P.O. Drawer 40 Tierra Amarilla, New Mexico 87575 Court Telephone No.: 575-588-0058	Case Number: D-0117-CV-2013-00050 Assigned Judge: Hon. Sheri A. Raphaelson
Plaintiff(s): ROBERTA MARTINEZ v. Defendant(s): BOARD OF COUNTY COMMISSIONERS FOR RIO ARRIBA COUNTY	Defendant Name: HON. MOISES MORALES, COUNTY CLERK AGENT FOR BOARD OF COUNTY COMMISSIONERS FOR RIO ARRIBA COUNTY. Address: P.O. BOX 158 Tierra Amarilla, New Mexico 87575

TO THE ABOVE NAMED DEFENDANT(S): Take notice that

1. A lawsuit has been filed against you. A copy of the lawsuit is attached. The Court issued this Summons.
2. You must respond to this lawsuit in writing. You must file your written response with the Court no later than thirty (30) days from the date you are served with this Summons. (The date you are considered served with the Summons is determined by Rule 1-004 NMRA) The Court's address is listed above.
3. You must file (in person or by mail) your written response with the Court. When you file your response, you must give or mail a copy to the person who signed the lawsuit.
4. If you do not respond in writing, the Court may enter judgment against you as requested in the lawsuit.



5. You are entitled to a jury trial in most types of lawsuits. To ask for a jury trial, you must request one in writing and pay a jury fee.
6. If you need an interpreter, you must ask for one in writing.
7. You may wish to consult a lawyer. You may contact the State Bar of New Mexico for help finding a lawyer at www.nmbar.org; 1-800-876-6657; or 1-505-797-6066.

Dated at Rio Arriba County, New Mexico, this 7 day of January, 2013.



STEPHEN T. PACHECO
CLERK OF THE DISTRICT COURT

BY: Maia Zamora
Deputy

/S/
Signature of Attorney for Plaintiff
Name: SALAZAR LAW OFFICES, P.C.
Address: P.O. BOX 171, ALCALDE, NM 87511
Telephone No.: 505-747-3977
Fax No.: 505-471-2366
EmailAddress: AJSALAZARLAW@GMAIL.COM

THIS SUMMONS IS ISSUED PURSUANT TO RULE 1-004 OF THE NEW
MEXICO
RULES OF CIVIL PROCEDURE FOR DISTRICT COURTS.

RETURN¹

STATE OF NEW MEXICO)

)ss

COUNTY OF _____)

I, being duly sworn, on oath, state that I am over the age of eighteen (18) years and not a party to this lawsuit, and that I served this summons in _____ county on the _____ day of _____, _____, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

(check one box and fill in appropriate blanks)

☐ to the defendant _____ (*used when defendant accepts a copy of summons and complaint or refuses to accept the summons and complaint*)

☐ to the defendant by [mail] [courier service] as provided by Rule 1-004 NMRA (*used when service is by mail or commercial courier service*).

After attempting to serve the summons and complaint on the defendant by personal service or by mail or commercial courier service, by delivering a copy of this summons, with a copy of complaint attached, in the following manner:

☐ to _____, a person over fifteen (15) years of age and residing at the usual place of abode of defendant _____, (*used when the defendant is not presently at place of abode*) and by mailing by first class mail to the defendant at _____ (*insert defendant's last known mailing address*) a copy of the summons and complaint.

☐ to _____, the person apparently in charge at the actual place of business or employment of the defendant and by mailing by first class mail to the defendant at _____ (*insert defendant's business address*) and by mailing the summons and complaint by first class mail to the defendant at _____ (*insert defendant's last known mailing address*).

☐ to _____, an agent authorized to receive service of process for defendant _____.

[] to _____, [parent] [guardian] [custodian] [conservator]
[guardian ad litem] of defendant _____ (*used when
defendant is a minor or an incompetent person*).

[] to _____ (*name of person*),
_____, (*title of person authorized to receive service.*
*Use this alternative when the defendant is a corporation or an association
subject to a suit under a common name, a land grant board of trustees, the State
of New Mexico or any political subdivision*).

Fees: _____

Signature of person making service

Title (*if any*)

Subscribed and sworn to before me this _____ day of _____, _____²

Judge, notary or other officer
authorized to administer oaths

Official title

USE NOTE

1. Unless otherwise ordered by the court, this return is not to be filed with the court prior to service of the summons and complaint on the defendant.
2. If service is made by the sheriff or a deputy sheriff of a New Mexico county, the signature of the sheriff or deputy sheriff need not be notarized.

[Adopted effective August 1, 1988; as amended by Supreme Court Order 05-8300-01, effective March 1, 2005; by Supreme Court Order 07-8300-16, effective August 1, 2007; by Supreme Court Order No. 12-8300-026, effective for all cases filed or pending on or after January 7, 2013.]

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF RIO ARriba

LC

ROBERTA MARTINEZ,
Plaintiff,

vs.

No. ~~D-0117-~~ D-117-CV-2013-00050

BOARD OF COUNTY COMMISSIONERS FOR
RIO ARriba COUNTY,
Defendant.

**VERIFIED COMPLAINT FOR WRONGFUL DISCHARGE, BREACH OF CONTRACT,
VIOLATION OF THE HUMAN RIGHTS ACT AND DISCRIMINATION**

COMES NOW Roberta Martinez, the Plaintiff herein, represented by SALAZAR LAW OFFICES, P.C. and AJ SALAZAR, Attorney at Law and for her causes of action, states:

1. Plaintiff is a resident of Rio Arriba County, New Mexico.
2. At all times material hereto, Plaintiff was a "public employee" as defined under New Mexico Law and was employed by the Rio Arriba County Adult Day Care program until February 5, 2011.
3. On February 5, 2011, Plaintiff was wrongfully terminated from her position as a result of her being diagnosed with serious medical conditions.
4. At all material times hereto, Defendant Board of County Commissioners for the County of Rio Arriba (County) is a political subdivision recognized by the laws of the State of New Mexico, which can be sued pursuant to NMSA 1978 Section 4-46-1, and is located in Rio Arriba County, state of New Mexico.
5. The County is a legal entity organized under the laws of the State of New Mexico

and can sue or be sued, and is a "public employer" pursuant to New Mexico Law.

6. The Agent for service of process is the County Clerk, pursuant to NMSA 1978 Section 4-46-2.

7. The actions giving rise to these claims occurred in Rio Arriba County, New Mexico.

8. This Court has jurisdiction over the parties.

9. This Court has jurisdiction over the subject matter herein.

10. Venue is appropriate and proper in this Court.

FACTUAL BASIS

11. Plaintiff was employed with the County since 2007, and in late 2010 was working in the County's Adult Day Care Program in the position of "Site Coordinator," whose primary duty area was the Espanola Senior Center in Espanola, New Mexico.

12. During this time in her employment, as of approximately July, 2010, Plaintiff was supervised by Ms. Maria Montoya, who was "Acting Director" of the Program.

13. Immediately after being placed under Ms. Maria Montoya's supervision, Plaintiff became subject to the unreasonable expectations of Ms. Montoya, including, but not limited to denial of assistance with multiple job duties requiring more than one person to complete. Additionally, although Plaintiff was working in the position of "Site Coordinator," Ms. Maria Montoya constantly reassigned Plaintiff to work full-time in the facility's kitchen or in the daycare portion of the facility, without assistance for this and other job responsibilities which required additional personnel. Ms. Maria Montoya was known to have commented to other employees about her opinion(s) on "breaking" Plaintiff.

14. Plaintiff began to have issues with her health in August, 2010 and said issues were exacerbated by the climate of Plaintiff's work environment.

15. Plaintiff specifically requested Family Medical Leave paperwork from the County Human resource office for leave in mid-September, 2010 however was denied said paperwork after several requests.

16. On or about October 26, 2010, Plaintiff placed the County on notice that she was requesting Family and Medical Leave (FMLA Leave).

17. In Plaintiff's leave request, she informed the County that she was suffering from "extreme fatigue, anxiety, insomnia, infection and weakness."

18. Plaintiff was subsequently diagnosed with the following serious medical conditions: Systemic Lupus, Degenerative Disc Disease and Fibromyalgia. Plaintiff provided notice of each of these diagnoses to the County, through her supervisor, Ms. Maria Montoya.

19. During her period of FMLA Leave, Plaintiff provided the County with updates of her medical conditions and also provided written documentation from her treatment providers informing the County of her condition and return to work status.

20. Rather than accommodate Plaintiff's disabilities and serious medical conditions, the County instead chose to terminate Plaintiff from her employment via termination letter dated February 4, 2011, and informed Plaintiff that her last day of employment would be February 5, 2011.

21. The County subsequently unlawfully denied Plaintiff unemployment benefits after her termination.

COUNT I-BREACH OF CONTRACT

22. All previous paragraphs are incorporated herein by reference.

23. The Rio Arriba County Personnel Handbook constitutes a written and implied contract between Plaintiff and the County.

24. The County breached the employment contract by terminating her employment and by not providing reasonable accommodations for Plaintiff's serious medical conditions.

25. As a result of the County's breach, Plaintiff has thus suffered Loss of Wages, Denial of Unemployment Benefits, as well as Loss of Future Wages and Benefits.

COUNT II-WRONGFUL DISCHARGE

26. All previous paragraphs are incorporated herein by reference.

27. At the time Plaintiff was terminated, she was employed by the County as a "Full-Time Classified Employee," who shall be disciplined or discharged/terminated only for cause, Pursuant to the Rio Arriba County Personnel Handbook.

28. Based upon representations by the County, Plaintiff had a reasonable expectation that she could only be discharged for cause.

29. The County violated the employment agreement with Plaintiff by wrongfully terminating her employment.

30. As a result of the County's violations, Plaintiff has thus suffered Loss of Wages, Denial of Unemployment Benefits, as well as Loss of Future Wages and Benefits.

COUNT III-VIOLATION OF THE NEW MEXICO HUMAN RIGHTS ACT

31. All previous paragraphs are incorporated herein by reference.

32. At the time Plaintiff was terminated, she had been on Family Medical Leave and was diagnosed with at least one "serious medical condition" as defined by the New Mexico

Human Rights Act and New Mexico Law.

33. The County violated the New Mexico Human Rights Act by failing to accommodate the Plaintiff's serious medical conditions and by instead terminating her employment.

34. As a result of the County's violations, Plaintiff has thus suffered Loss of Wages, Denial of Unemployment Benefits, as well as Loss of Future Wages and Benefits.

COUNT IV-DISCRIMINATION

35. All previous paragraphs are incorporated herein by reference.

36. At the time Plaintiff was terminated, she had been on Family Medical Leave and was diagnosed with Systemic Lupus, Degenerative Disc Disease and Fibromyalgia by her treatment providers.

37. Said diagnoses qualify as a "serious medical condition" as defined by New Mexico Law.

38. The County was aware of Plaintiff's diagnoses.

39. Plaintiff was otherwise qualified to meet all of her job requirements in spite of her diagnoses.

40. The County intentionally discriminated against Plaintiff because of her disability by refusing to accommodate her condition.

41. The County intentionally discriminated against Plaintiff by terminating her employment.

42. As a result of the County's violations, Plaintiff has thus suffered Loss of Wages, Denial of Unemployment Benefits, as well as Loss of Future Wages and Benefits.

COUNT V-INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS

43. All previous paragraphs are incorporated herein by reference.

44. At the time Plaintiff was terminated, she had been on Family Medical Leave and was diagnosed with Systemic Lupus, Degenerative Disc Disease and Fibromyalgia by her treatment providers.

45. Said diagnoses qualify as a "serious medical condition" as defined by New Mexico Law.

46. The County was aware of Plaintiff's diagnoses.

47. The constant harassment Plaintiff suffered at the hands of Ms. Maria Montoya ("Acting Director") leading up to Plaintiff's leave request in October, 2010 was extreme and outrageous under the circumstances.

48. In terminating Plaintiff's employment while Plaintiff was on Family Medical Leave, the County's actions were extreme and outrageous under the circumstances.

49. In subjecting Plaintiff to harassment prior to medical leave and subsequently terminating Plaintiff's employment and denying her subsequent unemployment benefits, the County acted intentionally and recklessly.

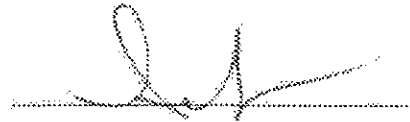
50. As a result of the County's conduct, Plaintiff has experienced severe emotional distress.

WHEREFORE, Plaintiff prays to this Court for relief in the following particulars:

1. For a judgment in favor of the Plaintiff in an amount to be proven at trial;
2. For a judgment including loss of wages and loss of future wages and benefits.
3. For payment of all costs incurred, including attorney's fees; and
4. For such other relief as this Court deems just and proper.

Respectfully submitted,

SALAZAR LAW OFFICES, P.C.



AJ SALAZAR, ESQ.

NM Bar#7516

Salazar Law Offices

P.O. Box 171

Alcalde, New Mexico 87511

Phone: (505) 747-3977

Fax: (505) 471-2366

VERIFICATION

STATE OF NEW MEXICO)

COUNTY OF Santa Fe)

SS.

I, ROBERTA MARTINEZ, having been sworn and do declare under oath that I am the Plaintiff in the above-entitled cause and state that I have read the attached Complaint and I state that the contents thereof are true and correct to the best of my knowledge, except as to such allegations based upon information and belief and I thus believe all such matters to be true and do so under penalty of perjury.

[Signature]
ROBERTA MARTINEZ

SUBSCRIBED AND SWORN TO before me this date: February 1, 2013

[Signature]
NOTARY PUBLIC

My Commission Expires:

May 22, 2014

